

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

STELLA PAWLOSKI,

Plaintiff,

Civil No. 08-13980

v.

District Judge Denise Page Hood
Magistrate Judge R. Steven Whalen

COMMISSIONER OF SOCIAL
SECURITY

Defendant.

ORDER ACCEPTING REPORT AND RECOMMENDATION

This matter is before the Court on Magistrate Judge R. Steven Whalen's Report and Recommendation filed August 28, 2009. To date, no Objections have been filed to the Report and Recommendation.

Judicial review of the Commissioner's decision is limited in scope to determining whether the findings of fact made by the Commissioner are supported by substantial evidence, and deciding whether the Commissioner employed the proper legal criteria in reaching his conclusion. *Garner v. Heckler*, 745 F.2d 383 (6th Cir. 1984). The credibility findings of an administrative law judge ("ALJ") must not be discarded lightly and should be accorded great deference. *Hardaway v. Secretary of Health and Human Services*, 823 F.2d 922, 928 (6th Cir. 1987). A district court's review of an ALJ's decision is not a *de novo* review. The district court may not resolve conflicts in the evidence nor decide questions of credibility. *Garner*, 745 F.2d at 397. The decision of the Commissioner must be upheld if supported by substantial evidence, even if the record might support a contrary decision. *Smith v. Secretary of HHS*, 893 F.2d 106,

108 (6th Cir. 1989). An administrative decision must be affirmed if supported by substantial evidence, even if the Court might arrive at a different conclusion. *Mullen v. Bowen*, 800 F.2d 535, 545 (6th Cir. 1986) (quoting *Baker v. Heckler*, 730 F.2d 1147, 1150 (8th Cir. 1984)).

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusion for the proper reasons. The Court agrees with the Magistrate Judge that on the facts of this case, the ALJ's hypothetical question was not flawed because the ALJ's findings reasonably accommodated all restrictions and limitations substantiated by the evidence. Further, the Court agrees with the Magistrate Judge that the ALJ's findings are supported by the opinions of Plaintiff's treating physicians and the record submitted by the parties. Thus, the ALJ's findings should not be disturbed by this Court.

Accordingly,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge R. Steven Whalen (**Docket No. 14, filed August 28, 2009**) is ACCEPTED and ADOPTED as this Court's findings of fact and conclusions of law.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgement (**Docket No. 10, filed February 9, 2009**) is DENIED.

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgement (**Docket No. 13, filed April 8, 2009**) is GRANTED.

IT IS FURTHER ORDERED that this matter is DISMISSED with prejudice.

Dated: September 18, 2009

S/Denise Page Hood
Denise Page Hood
United States District Judge

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 18, 2009, by electronic and/or ordinary mail.

S/William F. Lewis
Case Manager